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COMMITTEE ON THE RIGHTS OF THE CHILD

Twelfth session

SUMMARY RECORD OF THE 303rd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 30 May 1996, at 3 p.m.

Chairperson: Mrs. BELEMBAOGO

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (continued)

Initial report of Nepal (CRC/C/3/Add.24; HRI/CORE/1/Add.42; CRC/C.12/WP.3) (continued)

1. Mr. SHAKYA (Nepal) replying to a number of points raised by members of the Committee, said that laws had been reviewed and brought into line with the Convention, but he had to admit that their practical implementation was proving problematic. He asked the Committee members to point out any shortcomings they may have spotted in the law itself, and appropriate action would be taken.

2. There were no separate schools for different castes, and he did not think there was a major problem in that area.

3. He acknowledged that the Government faced difficulties in addressing the problems caused by the lack of border controls.

4. He stressed that 18 was the minimum age for recruitment in the armed forces, though children could enrol for military training at the age of 16.

5. The idea of child participation was new to Nepal, and it was very much feeling its way in that area, gradually increasing public awareness through the media and some workshops and seminars.

6. Non-governmental organizations played a major role in focusing the Government's attention on children's issues in Nepal. They had pressured the Government and provided it with information which would otherwise not have been available to it, and had been instrumental in getting the Convention adopted. Action by non-governmental organizations had led the Government to introduce new measures on adoption. The non-governmental organizations were mostly statutory bodies and were required to produce annual audited reports.

7. To the Government's knowledge, there was no link between missing children, most of whom were found safe in Nepal, and the sale of human organs. However, now that the Government had been alerted to the possibility, it would be even more vigilant.

8. On the question of registration, he explained that abandoned children whose parents could not be traced were given the name of the person to whose care they were entrusted. He was not sure whose name the child was given on the less frequent occasions when he or she had to be taken to an orphanage or similar institution and the natural parents could not be traced. Any child whose parents could not be found became a citizen of Nepal automatically.

9. A citizenship certificate was a sort of identity document, usually issued at the age of 16. As an illustration of national legislation being waived in favour of the provisions of the Convention, he described the case of a group of children not yet old enough to hold such a certificate who wished to register a non-governmental organization. Nepalese legislation would not

normally have allowed children under 16 to register an organization, but article 15 of the Convention, on freedom of association, had been successfully invoked.

10. He confirmed that Nepal was only a signatory to the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, though the Government was considering ratifying it.

11. Miss MAKAU said that, while making allowances for Nepal's young democracy and the problems it faced, such as controlling cross-border flows, she could not accept that trafficking, sexual abuse, domestic violence and so on did not take place in Nepal, when there was not a country in the world where they did not take place. She was concerned at the apparent ineffectiveness of the country's legal system, and had doubts about the attitude of Nepalese society towards safeguarding the rights of the child. She asked if the social worker system was effective and whether social workers were adequately trained to deal with child abuse. As "fair houses" had yet to be set up and there were not enough children's homes, she wanted to know where children were housed on the rare occasions that they dared to lodge a complaint about abuse.

12. She asked whether there was a law against incest, what the general attitude of the public was to incest, whether there were counselling services available to the victims and perpetrators, and whether there was any kind of compensation available to victims. She suggested that legislation on domestic abuse should be introduced, or reviewed if already in place. She also wondered whether the attitude of law-enforcement personnel needed to be looked at, perhaps incest and domestic abuse were considered private matters to be sorted out within the family.

13. Nepalese law was quite specific on the responsibilities of parents towards their children, but clarification was needed on the State's legal responsibility to children under the terms of the Convention. It appeared from paragraph 263 of the report that no minimum standard of living was prescribed and that there were no financial provisions for poor families.

14. Finally, she noted that the non-governmental organizations took on a good deal of responsibility in Nepal and there was a nagging doubt that the Government was becoming over-reliant on them.

15. Mrs. SANTOS PAIS said that on the question of birth registration, the Government's effort to raise awareness by using radio was an interesting approach and might be effective. Mobile registration units should be tried; they had been effective elsewhere, and it was relatively easy to train staff. In addition, schools, as well as hospitals and clinics, should be allowed to register children.

16. The Convention was unequivocal on the question of corporal punishment. The lack of complaints, for which there could be various explanations, did not justify the continued tolerance of even light beatings. Corporal punishment should be prohibited by law.

17. She welcomed the Government's willingness to review national legislation in relation to torture, cruelty and other inhuman or degrading treatment.

The current sanctions did not reflect the seriousness of such violations of children's rights. It was important for the Commission on Human Rights bein set up in Nepal to carry out independent investigations into individual case

18. The law on the minimum age for marriage should be changed to make it t same for boys and girls, and legislation must be followed up with awareness and education campaigns to alert girls, in particular, to the problems cause by early marriages and the responsibilities that went with being a parent.

19. A new law was needed to prevent child trafficking and break the viciou circle whereby parents sent girls to India to get money, and then sent them back for more when they returned. The Human Trafficking (Control) Act of 19 was not sufficient on its own. Non-governmental organizations could perhaps help by raising awareness and monitoring the results of new legal measures.

20. Attitudes towards child labour had to be changed. The imprecise langu in the Children's Act, referring to children not being allowed to work beyon their physical capacity (para. 164 of the report), was inadequate. Schools, non-governmental organizations and UNICEF should cooperate in persuading the population that children should not be working.

21. Mrs. KARP suggested that, when the Commission on Human Rights w s set in Nepal, a specific department should be established to deal with children' rights, as experience had shown that without a specific mandate the best intentions tended to go awry.

22. A study was needed to identify the reasons why victims of sexual exploitation or domestic violence did not complain. Victims needed to know in advance that any complaint would be handled correctly, and to that end th procedures for investigation, giving testimony and rehabilitation had to be looked into.

23. Clearly, a change of attitudes in society was needed if the practice o enforced marriages was to be ended. A more radical approach would be to mak the arranging of such marriages a criminal offence.

24. She expressed her satisfaction that a start had been made on parental education, and suggested that parents should be taught about the rights of t child, incest and alternatives to beatings, if that was not already the case

25. Addressing her question to Ms. Tuladhar (Child Awareness Group), she asked if her organization had given any thought to educating parents on how deal with domestic violence and incest and, if it had discussed the problem whether it had come up with any suggestions on action to be taken by the St and on how attitudes could be changed within families.

26. She understood that UNICEF was involved in a new project to combat chi trafficking and asked for some details of the campaign and what it hoped to achieve.

27. She commended the delegation for its readiness to begin research into extent of physical harm caused by corporal punishment. In too many cases,

child abuse began with parents mistakenly believing they were educating their children, and ended with them causing physical damage to the child.

28. Mrs. BUFFMIQ asked what action was planned to protect children from the possible adverse effects of finding themselves in a family situation of polygamy, bigamy or concubinage. She asked when work would begin on the situational analysis of the family, to determine what child care arrangements existed. According to reports, some children were left at home alone while the parents were working. She suggested if a small UNICEF project, which encouraged neighbours to help each other out, could be replicated on a larger scale.

29. Finally, she asked for information on the use of child labour in domestic service, and particularly on the situation of young girls exposed to sexual exploitation.

30. It had been noted that alcoholism was an important factor in domestic violence. Did Nepal plan to introduce any programmes to deal with the problems caused by alcohol abuse? Similarly, what were the authorities, non-governmental organizations (NGOs) and Church doing to provide pre-marriage counselling in order to prepare people for parenthood and help prevent domestic violence?

31. She asked what measures were being implemented to encourage street children with families to return home, and whether the importance of education was being impressed upon them. Finally, information would be welcome on the minimum standard of living, whether there was a relevant index and whether steps were being taken to encourage income-generating activities as a way of alleviating poverty.

32. Mrs. BADRAN said it would be useful to study the incidence of disability among children and the causes so that preventive measures could be taken. A programme was also needed to cater for mentally disturbed children, provide suitable treatment and determine how far the causes were related to family problems.

33. Mr. SHAKYA (Nepal) said that the establishment of a social security system was one of Nepal's priorities. There were no official statistics on the standard of living, although estimates indicated that approximately 49 per cent of the population lived below the poverty line and that the average annual per capita income was in the region of US$ 200.

34. On the question of domestic violence, sexual abuse and the trafficking of children, he said that although legislation prohibiting such offences existed, it was not being implemented effectively. The Committee's suggestion on the training of social workers would be duly considered. It was true that cases of abuse, trafficking and so forth were not being reported. That would have to be looked into, as would the possibility that complaints procedures were too complicated and the fact that people were simply reluctant to come forward for social reasons. However, when cases were reported, they were taken very seriously and in the case of trafficking, the burden of proof lay with the defendant. One positive aspect of Nepalese life was the traditional family unity, which would seem to preclude sexual abuse within the family. As the

Committee had suggested, awareness-raising campaigns would be invaluable if they brought together parents, NGOs, communities and the police. The United Nations Children's Fund (UNICEF) had managed to mobilize students and the police on the questions of abuse, domestic violence and trafficking. With regard to the effect of alcohol abuse on the incidence of domestic violence, Nepal, following a campaign waged by a number of women, had declared several districts alcohol-free zones.

35. With regard to street children, children's homes and children in conflict with the law, he said that a correctional home for child offenders would be set up under the Ministry for Women and Social Welfare. More could be set up at a later date. Bal Mandirs (children's homes) had been set up in the 75 districts but further homes would hopefully be opened under the District Child Welfare Board. From studies, it appeared that street children moved to urban areas mainly for economic reasons. Nepal was looking to NGOs and the Committee itself for suggestions on how to deal with the problem of such children, particularly those without families, who would probably need institutional care.

36. As to whether children were learning the importance of education, he said that Nepal still lacked a compulsory education system, although primary education was free. In some areas, schemes had been set up to provide a small amount of money to families to encourage them to send their children, particularly their daughters, to school.

37. Efforts were being made to educate parents on the rights of the child, in conformity with the Convention. Although not all the aspects mentioned by members of the Committee were covered, particular emphasis was placed on children's health and education. The awareness-raising tactics being used were similar to those adopted in the campaign to help parents combat diarrhoea in children. Unfortunately, the State was still not in a position to provide direct financial assistance for the care of children.

38. By law, birth registration was dealt with by Village Development Committees. The suggestion that schools could assist in registration would be duly considered. As to the registration of marriages, unless the couple were of legal marriageable age, registration would be denied. However, even though the marriage was not legally recognized, it could be recognized by society. Registration was often hindered by illiteracy, the lack of registration offices and the problem of verifying the ages of couples.

39. Most marriages in Nepal were arranged. If the low divorce rate was any indicator, the system seemed to function well. Traditionally, Nepal had sanctioned the practice of polygamy so that the wives could, for example, help work the land. However, such practices had been prohibited by law in recent years. That did not mean that such traditional practices had been totally eradicated in remote mountain areas, for example. The only provision that harked back to the days when polygamy was permitted related to a husband's right to marry a second wife if the first wife had been barren for 10 years.

40. With regard to the beating of children, he said that light corporal punishment was permitted by law. It was assumed that parents would have the best interests of the child at heart and not be tempted to use excessive violence.

41. On the question of child labour, he said that children under 14 years of age were not allowed to work. Between the ages of 14 and 16 they could do light work, which according to labour rules meant that they were not permitted to lift weights over 15 kilos.

42. The possibility of appointing a commissioner on the rights of the child and a commissioner for the rights of women would be given due consideration.

43. Grandparents played a prominent role in the upbringing and care of children. In rural areas in particular, it was also common practice for neighbours to look after other people's children. That was, however, less common in urban areas, where neighbours had less contact.

44. It was difficult to make provision for disabled children inasmuch as the estimated numbers of disabled people varied so widely, from 0.5 per cent of the population to 15 per cent. The position would be clearer once studies being conducted by the Nepal Disabled Association and the United Nations Children's Fund had been completed.

45. Ms. TULADHAR (Child Awareness Group) stressed the importance of parental support in spreading awareness of the Convention. Unless parents were convinced of the value of her Group, they were reluctant to allow their children to attend seminars in Kathmandu. Parents had, therefore, been invited to participate and the interaction had proved valuable.

46. She hoped that the State would do more to support child awareness, both by encouraging support from parents and more generally. Her Group had initially had to overcome many obstacles because it was not registered; at the same time the organizers had been told that they could not register it because, as minors, they were not citizens. Registration had been achieved only after an appeal to the highest levels. Communication, too, was important; she herself had not heard about the Central Child Welfare Board described earlier by Mr. Shakya and she would like them to be more widely publicized.

47. The CHAIRPERSON said that Ms. Tuladhar's remarks provided strong support for the Convention's insistence on freedom of expression and of association. She hoped that the Government would take heed. She also considered that there was room for more cooperation between the Government and non-governmental organizations. The Government could and should ask for more help, particularly for technical assistance, to promote activities benefiting children. The decentralization of such activities would also be useful.

48. Miss MASON noted that, in discussing health care, the report restricted itself to infants. She wished to know more about the health of the teenage population, with regard not merely to sexually transmitted diseases, but also to their general physical and mentally health. She asked what level of care was provided for such children, especially girls, in rural areas. With regard

to those already suffering from it? She asked what facilities were available and whether sufferers were informed about their condition, whether they could avoid being stigmatized and whether they had access to health centres. She also asked whether health care and sex education were taught in schools.

49. She asked whether there was any scheme to prevent children in conflict with the law from entering the criminal justice system. In some countries, the police were authorized to recommend that the child should be counselled, as a result of which the case might not reach the courts. She also asked about the arrest procedure and to what extent social workers and parents were involved. Could the parent be present in court? And was there a possibility for a social worker to present a report taking into account the child's circumstances?

50. A further concern was the situation of child workers. She asked whether there were any regulations protecting and guaranteeing the rights of children in private employment. What benefits could they enjoy? Were there trade unions catering for them and were they allowed to join such unions? She also wished to know whether a labour inspectorate existed and, if so, whether it was regulated, whether there were any sanctions against employers who did not fulfil their obligations under the Labour Act and whether any recreational opportunities existed for child workers, as opposed to the facilities provided for the children of workers, mentioned in paragraph 319.

51. Lastly, she was confused by the information on rape contained in paragraph 379, particularly the last sentence, which stated that the punishment of life imprisonment depended on the level of brutality involved and the relations between the rapist and his victim. She asked for clarification.

52. Mrs. KARP asked whether children under 16 were able to have medical treatment without their parents' knowledge or consent and, if so, what protection they had from unethical doctors who might disclose details of the consultation, particularly on sensitive subjects such as sexual behaviour and drugs. Secondly, noting that a drug problem existed not only in Kathmandu, where rehabilitation programmes were available, but elsewhere, she asked what plans the Government had to tackle the problem in rural areas.

53. Mrs. SANTOS PAIS said that the reality was that only 15 per cent of children had access to health services, malnutrition was rampant in rural and poor urban areas and half the population lived below the poverty line. Lack of resources, however, should not prevent all available resources - including those of international organizations, of which the Government should do more to avail itself - going to children as a priority and being used in particular to help the most disadvantaged through positive discrimination. She had been struck by the level of pollution, particularly in and around Kathmandu; action should be taken to tackle that.

54. She was also concerned about children in the justice system. The intentions expressed in the report were admirable, but many had not been implemented. Lack of resources need not always be a reason for not introducing improvements; alternatives to putting children in prison, for example, could be found. Another area of concern was the attitude of the

police to children. She asked what kind of training the police received, what complaints system existed, so that those violating the law could be punished, and how much the police were paid. If they were badly paid they were tempted to be corrupt, which could be harmful to children engaged in prostitution, for example. She also asked how girls could be persuaded to abandon prostitution. What education or training were they given if they left the brothel? Lastly she asked for further details about the provision of the Muluki Ain under which mentally disturbed children could be put in chains.

55. Mrs. BADRAN expressed concern that Nepal's economy was so weak - and seemingly getting weaker - that it would be unable to implement its ambitious plans. She reminded the delegation that the envisaged rapid industrialization, if carried out with support from the World Bank and the International Monetary Fund, would take a heavy toll of the country's financial resources. Nepal should not make plans on the basis of a non-existent budget.

56. Mrs. SARDENBERG asked whether traditional medicine existed in the villages and, if so, whether it could replace reliance on chemical drugs. Similarly, it might be possible to form a network of health volunteers to help with basic health care. She also asked whether, following the completion of studies on vulnerable groups such as domestic servants, measures to improve their lot were being planned.

57. Mr. SHAKYA (Nepal), responding briefly to the questions that had been raised, said that teenage health was quite a new issue. The biggest problems were drug abuse and AIDS. Some drug awareness and rehabilitation centres existed, but only in urban areas, whereas the problem had spread to the countryside as well. An AIDS prevention programme had been started, but few educational measures had been taken. The incidence of AIDS in a given person was revealed only when that person donated blood or had a blood test for some other reason. Sex education was not conducted in schools and information was largely provided by notices in hospitals and elsewhere. Health care, however, was taught in schools. With regard to whether children could seek medical treatment without their parents' consent, he said that there was no law prohibiting such action, but there were no figures on how many children sought such treatment.

58. Traditional Nepalese belief was that certain rites associated with death had to be carried out by a son, otherwise the parent would go to hell. Family planning was naturally affected by such a belief, with families always striving to produce a son. There were no laws in that regard; awareness needed to be raised and in some families the necessary rites were performed by women. The Government, which hoped to see a maximum of two children per family, was encouraging religious leaders to speak out against the requirement for sons.

59. Priority must undoubtedly go to children, if only because 46 per cent of the population was under 16; if their health was neglected there would be no workforce in 20 years' time. As for the economy, he was confident that it would improve and that Nepal would be able to industrialize without calling on the International Monetary Fund or the World Bank. The Government hoped that

the funds required to industrialize the country would be forthcoming from existing donors such as Norway, Denmark and various United Nations organizations.

60. His Government was aware of the problem of pollution in Kathmandu and efforts were also being made to resolve the problem of waste disposal. In that regard, he said the drainage system, which was 50 years old, had to serve a population which had greatly increased. The issue of urban development was being given serious consideration by the relevant authorities, and the United Nations Conference Settlements was also assisting in urban planning.

61. With regard to child trafficking and prostitution, the solution was not to be found in severe legislation but in parental care, professional training and economic development.

62. He stressed the importance of traditional medicine in the rural areas.

63. The CHAIRPERSON invited the Committee members to submit their conclusions.

64. Mrs. FAPP said that the dialogue had been very informative. The fact that the rights of children were on the political agenda was of great importance. She was pleased to learn that the Children's Act would be reviewed in the light of statements made in the Committee. She was also pleased to learn that Nepal had begun to establish institutions to implement and coordinate the rights of the child. She stressed the importance of establishing district institutions in that regard and of defining the roles to be played by the Government and the NGOs.

65. She also wished to stress the fact that Nepal was the first country to have included a child in its delegation. Such child participation was of great value.

66. The greatest problem seemed to be that of illiteracy and Nepal should be encouraged to introduce compulsory education as a priority.

67. Another difficult issue was child labour, and the Committee welcomed the statement that the Government was considering adopting ILO Convention No. 138.

68. In seeking a solution to the problem of street children, the Government of Nepal should also give consideration to the fact that some street children left home because of domestic violence and exploitation.

69. With regard to juvenile justice, much had been said about the early age of criminal responsibility, the need to find alternatives to imprisonment and the situation of children imprisoned with adults. The Government should also look into the question of treatment of mentally-ill children in that regard.

70. Mrs. SANTOS PAIS said that it was important to ensure full conformity between the Convention and national legislation. Areas needing attention included effective enforcement of the law and remedies, and the need for increased awareness in order to overcome prevailing prejudices regarding the caste system and early marriage.

71. Another area of importance was data collection. She stressed the need for the Government to pursue its efforts to cover all the areas identified in the Convention, all the regions of the country and all groups of children, including those who were less visible such as victims of trafficking, and prostitution and children who belonged to the low castes.

72. With regard to child labour she said that activities such as work within the family, work in agriculture and work as domestic servants should not be forgotten. With regard to child prostitution, she stressed the need to provide an effective alternative so that prostitution would not be the only way of surviving.

73. She drew attention to the fact that the Government of Nepal and the Centre for Human Rights were in the process of developing a programme of technical cooperation. It was very important to take account of the Convention in that programme.

74. Miss MASON associated herself with the comments made by other members of the Committee.

75. With regard to education, the Government of Nepal should consider the possibility of making the maximum use of religious leaders and other influential persons in order to change traditional attitudes which were negative for the development of children and take full advantage of child participation.

76. Mrs. EUFEMIO noted that the report had been self-critical and had referred to the various constraints and difficulties faced by the Government. An analysis of the legislation, customs and traditions relating to the rights of the child should be made with a view to promoting the best interests of the child.

77. Mr. SHAKYA (Nepal) thanked the members of the Committee for their consideration of his Government's report and expressed his delegation's gratitude for the experience and knowledge it had gained during the session.

The meeting rose at 6.15 p.m.